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REMARKS

Claims 1-5, 8-9, 12-16, 18, 20-23, and 26 are all the claims presently pending in the application. The specification and claims 1, 3-5, 12, and 20-21 are amended to more clearly define the invention and claims 6-7, 11, 17, 19, and 24-25 are canceled. Claims 1, 12, and 21 are independent.

These amendments are made only to more particularly point out the invention for the Examiner and not for narrowing the scope of the claims or for any reason related to a statutory requirement for patentability.

Applicants also note that, notwithstanding any claim amendments herein or later during prosecution, Applicants' intent is to encompass equivalents of all claim elements.

Entry of this §1.116 Amendment is proper. Since the Amendments above narrow the issues for appeal and since such features and their distinctions over the prior art of record were discussed earlier, such amendments do not raise a new issue requiring a further search and/or consideration by the Examiner.

In particular, these Amendments amend the independent claims to recite the feature that the rigidity increasing member includes a saddle type switch bracket fastened to said pedal bracket together with said pedal lever pivot. This feature was previously recite by, for example, claims 4 and 10. Claims 4 and 10 have previously been considered by the Examiner. Therefore, such amendments do not raise a new issue requiring a further search and/or consideration by the Examiner.

As such, entry of this Amendment is believed proper and Applicants earnestly solicit

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entry. No new matter has been added.

Claims 1-3, 5, 12-15, 18, 21-23, and 26 stand rejected under 35 U.S.C. § 102(e) as being anticipated by the Nawata, et al. reference. Claims 1-3, 5, 12-14, 18, 21-22, and 26 stand rejected under 35 U.S.C. § 102(e) as being anticipated by the Notake, et al. reference. Claims 8-9, 16, and 24-25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the Nawata et al. reference. Claims 1-6, 10-14, 18, and 26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the Notake et al. reference in view of the Kato reference. Claims 1-6, 8-16, 18, 20, and 24-25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the Nawata et al. reference in view of the Kato reference.

These rejections are respectfully traversed in the following discussion.

I. THE CLAIMED INVENTION

An exemplary embodiment of the claimed invention, as defined by, for example, independent claim 1, is directed to a pedal bracket structure that includes a pedal bracket fixed at a front end portion to a toe board, a pedal lever rotatably supported by a rear end portion of the pedal bracket via a pedal lever pivot, and a rigidity increasing member including a saddle type switch bracket fastened to the pedal bracket together with the pedal lever pivot. The pedal bracket includes an outwardly swollen rigidity supplementing portion in the front end portion of the pedal bracket, and a brittle portion contiguous to and at a rear side of the rigidity supplementing portion.

As explained by the present specification, a first conventional pedal support structure

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includes a back plate 140 (e.g., see Figure 6 of the present application) just above a hole in a pedal bracket 110 which improves longitudinal rigidity of the pedal bracket. The hole is provided to allow the bracket to crush easily in the event of a front end collision. However, there is a risk that the back plate 140 will deteriorate the deforming promoting function of the hole in the pedal bracket.

As shown in Fig. 7 (which corresponds to JPA 9-25821 to Kato, cited by the Examiner and discussed below), a second conventional pedal support structure includes pedal bracket 222 which includes an opening which deforms and is rigidly supported at a bracket side sliding portion 238 which must be attached to a vehicle side sliding member 241 at an inclination angle θ . However, the second conventional pedal support structure requires a number of components and further requires extensive modifications to the vehicle side to include a vehicle side sliding member at the inclination angle.

By contrast, the present invention solves the problems of the conventional structures by providing a pedal bracket structure that includes a pedal bracket, a pedal lever rotatably supported by the pedal bracket and a rigidity increasing rigidity increasing member including a saddle type switch bracket fastened to the pedal bracket together with the pedal lever pivot. In this manner, the addition of the rigidity increasing rigidity increasing member including a saddle type switch bracket fastened to the pedal bracket together with the pedal lever pivot with the above-described rigidity supplementing portion further improves the feeling of the operation of the pedal lever while still providing the brittle portion in the pedal bracket to ensure proper deformation of the pedal bracket during impact absorption. (Page 5, lines 7-15).

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II. THE 35 U.S.C. § 112, SECOND PARAGRAPH REJECTION

The Examiner alleges that claims 22-26 recite subject matter that was not described in the specification. While Applicants submit that such would be clear to one of ordinary skill in the art taking the present Application as a whole, to speed prosecution claims 24-25 have been canceled.

However, regarding claims 22-23, and 26, the specification has been amended to include the term "cylindrically-shaped portion," and, contrary to the Examiner's allegations, Applicants respectfully submit that the drawings provide support for the claimed subject matter. Thus, claims 22-23 and 26 do not recite new matter.

The Examiner alleges claims 22-23 and 26 contain subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the art that the inventors had possession of the claimed invention at the time the application was filed. The Examiner alleges that the "cylindrically -shaped portion" is considered new matter and alleges that neither the specification nor the drawings describe the rigidity supplementing portion as having a "cylindrically-shaped portion."

Contrary to the Examiner's allegation, the "cylindrically-shaped portion" is not new matter. Rather, the specification clearly refers to the rigidity supplementing portion as being indicated by reference number 4. Figures 1A, 1B and 2, clearly illustrate a rigidity supplementing portion that is a cylindrically-shaped portion. Figure 1A illustrates a left side view of the cylindrically-shaped rigidity supplementing portion 4. Figure 1B illustrates a rear side view of the cylindrically-shaped rigidity supplementing portion 4. Figure 2 illustrates a

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perspective view of the cylindrically-shaped rigidity supplementing portion 4.

Applicants respectfully submit that the drawings provide support for the subject matter recited by claims 22-23 and 26.

Further, this amendment amends the specification to describe the rigidity supplementing portion as being, for example, a cylindrically-shaped portion.

In view of the foregoing, the Examiner is respectfully requested to withdraw this rejection.

III. THE PRIOR ART REJECTIONS

A. The Nawata et al. reference

Regarding the rejections of claims 1-3, 5, 8-9, 12-16, 18, and 21-26, the Examiner alleges that the Nawata et al. reference teaches the claimed invention. Applicants submit, however, that there are elements of the claimed invention which are neither taught nor suggested by the Nawata et al. reference.

None of the applied references teaches or suggests the feature of the present invention including a pedal bracket structure that includes a pedal bracket having a rigidity supplementing portion in combination with a ridigity increasing rigidity increasing member including a saddle type switch bracket fastened to the pedal bracket together with the pedal lever pivot as recited by the independent claims. As explained above, this combination of features is important for improving the feeling of the operation of the pedal lever while still providing the brittle portion in the pedal bracket to ensure proper deformation of the pedal bracket during impact absorption.

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Indeed, the Examiner admits that the Nawata et al. reference “fails to show a switch bracket having a saddle shape attached to the pedal bracket with a rigidity supplementing bracket.” (Office Action, page 11).

Therefore, the Nawata et al. reference does not teach or suggest each and every element of the claimed invention and the Examiner is respectfully requested to withdraw the rejections of claims 1-3, 5, 8-9, 12-16, 18, and 21-26.

B. The Notake et al. reference

Regarding the rejections of claims 1-3, 5, 12-14, 18, 21-22, and 26, the Examiner alleges that the Notake et al. reference teaches the claimed invention. Applicants submit, however, that there are elements of the claimed invention which are neither taught nor suggested by the Notake et al. reference.

None of the applied references teaches or suggests the feature of the present invention including a pedal bracket structure that includes a pedal bracket having a rigidity supplementing portion in combination with a rigidity increasing rigidity increasing member including a saddle type switch bracket fastened to the pedal bracket together with the pedal lever pivot as recited by the independent claims. As explained above, this combination of features is important for improving the feeling of the operation of the pedal lever while still providing the brittle portion in the pedal bracket to ensure proper deformation of the pedal bracket during impact absorption.

Indeed, the Examiner admits that the Notake et al. reference “fails to show a switch bracket having a saddle shape attached to the pedal bracket with a rigidity supplementing

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bracket.” (Office Action, page 9).

Therefore, the Notake et al. reference does not teach or suggest each and every element of the claimed invention and the Examiner is respectfully requested to withdraw the rejections of claims 1-3, 5, 8-9, 12-14, 18, and 26.

C. The Notake et al. reference in view of the Kato reference

Regarding the rejection of claims 1-6, 10-14, 18, and 26, the Examiner alleges that the Kato reference would have been combined with the Notake et al. reference to form the claimed invention.

However, Applicants respectfully submit that the Examiner has failed to present a *prima facie* case of obviousness by failing: 1) to provide references that provide any suggestion or motivation to make the Examiner’s alleged modification; and 2) to provide any reference which teaches or suggests the features of the claimed invention.

The Examiner admits that the Notake et al. reference “fails to show a switch bracket having a saddle shape attached to the pedal bracket with a rigidity supplementing bracket.”

The Examiner alleges that the Kato reference remedies these deficiencies. However, Applicants respectfully submit that the Kato reference does not remedy the deficiencies of the Notake et al. reference.

Before continuing the discussion of the Kato reference, Applicants note that U.S. Patent No. 6,339,971 corresponds to JP 9-254821. Since U.S. Patent No. 6,339,971 is in the English language, Applicants will refer to the U.S. Patent rather than the Japanese reference in the

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following discussion.

The Examiner alleges that “It would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply the switch bracket as taught by Kato (sic) in the pedal bracket structure of Notake et al. (sic) in order to provide a safer driving condition by installing a stop lamp switch to turn on the brake light in case of a front collision.”

Section 2141.01 of the Manual of Patent Examining Procedure (MPEP) requires:

“When applying 35 U.S.C. 103, the following tenets of patent law must be adhered to: . . .

(B) The references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination;” (emphasis added).

Applicants note that the Examiner failed to provide any citation to an applied reference which suggests the desirability of making the alleged modification.

Indeed, Applicants note that the Kato reference does not disclose the Examiner’s alleged motivation of “installing a stop lamp switch to turn on the brake light in case of a front collision.”

Rather, the Kato reference merely discloses that a brake switch 30 is provided and that the “brake switch 30 is turned off when the movable contact point 30a contacts the contacting member 34 . . . [and the] . . . brake switch 30 is turned on when the movable contact point 30a is separated from the contacting member 34.” (Col. 6, lines 8-17). Thus, presumably, the brake light is turned on when the “brake switch 30 “is separated from the contacting member 34.” (Id.)

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Indeed, the Kato reference discloses that contrary to turning on the brake light in the event of a front collision, the brake light remains off in a front collision.

For example, Figure 13 of the Kato reference clearly illustrates how the movable contact point of the brake switch maintains contact with the contacting member during a front collision.

Moreover, the Kato reference actually teaches away from permitting the brake switch from turning on in the event of a front collision.

“The brake switch 30 and the stopper plate 32 are mounted to the pedal bracket 22. A contacting member 34 is mounted to a lever portion 18a of the brake pedal 18.” (Col. 5, lines 60-62). Further, “A movement of the brake pedal 18 relative to the pedal bracket 22 in the rearward direction of the vehicle is restricted by the contacting member 34 contacting the movable contact point 30a.” (Col. 6, lines 17-21). It is this contact between the stopper plate 32 of the pedal bracket and the pedal lever 10 which ensures that the pedal lever moves as illustrated by Figure 5 (Col. 8, lines 26-44). “Thus, in the pedal supporting structure according to the present embodiment, when the upper end of the pedal bracket 22 moves downwardly” (as in the case of a front collision) “the brake pedal 18 moves in accordance with the restriction of the pivot shaft 28 and the stopper plate 32.” (Id.)

In other words, the object and purpose of the pedal bracket structures that are disclosed by the Kato reference is to move the pedal away from the driver in the instance of a front collision. It is the contact that is maintained between the stopper plate 32 and the pedal during a front collision that controls the movement of the pedal. Since, the brake switch is mounted on the stopper plate 32, clearly, the Kato reference teaches away from moving the pedal out of contact

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from the brake switch such that the brake lights are turned on.

Even assuming arguendo that one of ordinary skill in the art would have been motivated to combine these references, the combination would not teach or suggest each and every element of the claimed invention.

None of the applied references teaches or suggests the feature of the present invention including a pedal bracket structure that includes a pedal bracket having a rigidity supplementing portion in combination with a rigidity increasing rigidity increasing member including a saddle type switch bracket fastened to the pedal bracket together with the pedal lever pivot as recited by the independent claims. As explained above, this combination of features is important for improving the feeling of the operation of the pedal lever while still providing the brittle portion in the pedal bracket to ensure proper deformation of the pedal bracket during impact absorption.

As explained above, the Examiner admits that the Notake et al. reference does not teach or suggest these features.

The Kato reference does not remedy the deficiencies of the Notake et al. reference.

The Examiner alleges that the Kato reference discloses a “rigidity supplementing bracket 38.” However, contrary to the Examiner’s allegations, the Kato reference discloses that “As shown in Fig. 4, the pedal bracket 22 has a bracket side slide surface 38.” (Col. 6, lines 25-27). In other words, the pedal bracket 22 merely includes a slide surface 38 and does not teach or suggest a pedal bracket having a rigidity supplementing portion in combination with a rigidity increasing rigidity increasing member including a saddle type switch bracket fastened to the pedal bracket together with the pedal lever pivot as recited by the independent claims.

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Therefore, the Examiner is respectfully requested to withdraw this rejection of claims 1-6, 10-14, 18, and 26.

D. The Nawata et al. reference in view of the Kato reference

Regarding the rejection of claims 1-6, 8-16, 18-20, and 24-25, the Examiner alleges that the Kato reference would have been combined with the Nawata et al. reference to form the claimed invention. Applicants submit, however, that these references would not have been combined and even if combined, the combination would not teach or suggest each and every element of the claimed invention.

Applicants submit that the Examiner can point to no motivation or suggestion in the references to urge the combination as alleged by the Examiner.

The Examiner admits that the Nawata et al. reference “fails to show a switch bracket having a saddle shape attached to the pedal bracket with a rigidity supplementing bracket.”

The Examiner alleges that the Kato reference remedies these deficiencies. However, as explained above, Applicants respectfully submit that the Kato reference does not remedy the deficiencies of the Nawata et al. reference.

The Examiner again alleges that “It would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply the switch bracket as taught by Kato (sic) in the pedal bracket structure of Nawata et al. (sic) in order to provide a safer driving condition by installing a stop lamp switch to turn on the brake light in case of a front collision.”

Section 2141.01 of the Manual of Patent Examining Procedure (MPEP) requires:

“When applying 35 U.S.C. 103, the following tenets of patent law must

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be adhered to: . . .

(B) The references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination;" (emphasis added).

Applicants again note that the Examiner failed to provide any citation to an applied reference which suggests the desirability of making the alleged modification.

Indeed, as explained above, not only does the Kato reference not disclose the Examiner's alleged motivation of "installing a stop lamp switch to turn on the brake light in case of a front collision," but the Kato reference actually teaches away from the Examiner's alleged motivation.

Even assuming arguendo that one of ordinary skill in the art would have been motivated to combine these references, the combination would not teach or suggest each and every element of the claimed invention.

None of the applied references teaches or suggests the feature of the present invention including a pedal bracket structure that includes a pedal bracket having a rigidity supplementing portion in combination with a rigidity increasing rigidity increasing member including a saddle type switch bracket fastened to the pedal bracket together with the pedal lever pivot as recited by the independent claims. As explained above, this combination of features is important for improving the feeling of the operation of the pedal lever while still providing the brittle portion in the pedal bracket to ensure proper deformation of the pedal bracket during impact absorption.

As explained above, the Nawata et al. reference does not teach or suggest these features and the Kato reference does not remedy the deficiencies of the Notake et al.

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reference.

Therefore, the Examiner is respectfully requested to withdraw the rejection of claims 1-6, 8-16, 18-20, and 24-25.

IV. FORMAL MATTERS AND CONCLUSION

In view of the foregoing amendments and remarks, Applicants respectfully submit that claims 1-5, 8-9, 12-16, 18, and 20-21, all the claims presently pending in the Application, are patentably distinct over the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

Should the Examiner find the Application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

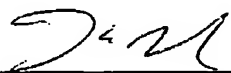
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The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Attorney's Deposit Account No. 50-0481.

Respectfully Submitted,

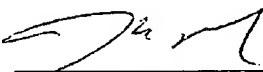
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CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that I am filing this Amendment by facsimile with the United States Patent and Trademark Office to Examiner Chong Hwa Kim, Group Art Unit 3682 at fax number (703) 872-9306 this 10th day of January, 2005.


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